

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN REINY JABS**, on January 8, 1999 at 2:59 P.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Reiny Jabs, Chairman (R)
Sen. Walter McNutt, Vice Chairman (R)
Sen. Tom A Beck (R)
Sen. Gerry Devlin (R)
Sen. Pete Ekegren (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Ken Mesaros (R)
Sen. Linda Nelson (D)
Sen. Jon Tester (D)

Members Excused: Sen. Greg Jergeson (D)

Members Absent: None.

Staff Present: Carol Masolo, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 147, 1/5/99, SB 18, 1/5/99
Executive Action: None

CHAIRMAN REINY JABS welcomed the committee and acknowledged new members, **SENATOR HALLIGAN**, **SENATOR TESTER**, and **SENATOR EKEGREN**. **CHAIRMAN JABS** pointed out that agriculture is the biggest single economy in the state bringing in about \$2.2 billion dollars, followed by tourism, mining, wood, gas and oil. There are 22,000 farms with an average value of just under a million dollars each. Prices haven't been good lately. Parity price is the price based on 1910 prices and if the price had kept up with expenses since

1914, barley should be \$5.82 instead of \$1.79, cattle should be \$149.99/lb. and they are only \$55/lb., hogs should be \$101.00, it says here it's \$28.00 but last week was \$19.00, and wheat should be \$9.52 and it's only \$2.37. These are figures by the Farmers Union as of Sept. 1998.

I've read farmers stay in business because the yields went up. How efficient can you get? A lot of people think milk comes from the refrigerator, beef from the store and everything else from the Schwan man. Price is driven by supply and demand and by US Government but we could do a little bit in this state here to help the economy out.

HEARING ON SB 147

Sponsor: SENATOR JOHN HERTEL, SD 47, Moore

Proponents: None

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 3.05}

SENATOR JOHN HERTEL, SD 47, MOORE, stated **SB 147** is a simple bill which establishes a fixed assessment of 5 cents per unit on produce and repeals the Department of Agriculture's authority to adjust the assessment by rule up to a maximum of 7 cents a unit. The produce assessment was enacted back in 1993. It provided revenue to the Department of Agriculture to conduct a produce inspection program.

The Department was authorized to adjust the assessment by rule within the maximum 7 cents set by the statutes. The fee was set at 5.5 cents. Because a surplus was accumulated in 1996, the fee was reduced to 3.5 cents and currently remains at 3.5 cents set by the Dept. rule. The surplus has been used and the Dept. finds it necessary to raise the assessment back to 5 cents, 1/2 cent less than back in 1993, in order to fund the critical programs. The passage of CI 75 prevents the Dept. from raising the assessment by rule. This bill would therefore have the net effect of raising the assessment from 3.5 to 5 cents. This would be submitted to the electorate for a vote. This fixed amount of the assessment is less than the maximum authorized by current statutes. Mr. Chairman, there are others here today to fill you in more on the parts of this bill that I know you need to know. Again, raising this 3.5 cents to 5 cents is really the main gist of the bill.

{Tape : 1; Side : A; Approx. Time : 3.08}

Ralph Peck, Director, Montana Department of Agriculture. SENATOR HERTEL has outlined the specifics of the bill very efficiently. We were in the process of raising the assessment from 3.5 cents to 5 cents through the rule making process when CI-75 was passed. We had already notified all of the individuals that are licensed and impacted through this fee. We received two phone calls with questions and one written comment in regard to our proposal to raise the fees.

Right now we are over 90% funded through state special fees. This is the one fee paid by the wholesaler and retailer that supports activities in the Department of Agriculture. Those activities include inspection for growing produce in Montana; potatoes in the seed industry, apples and cherry production. As we expand irrigation and get into alternative crops and higher valued crops, we'll do more in regard to inspection requirements.

We are spending more time writing fidosanitary certificates in regard to moving seed potatoes and also barley into Canada. As we get into more production with higher valued crops, we'll work to provide the fidosanitary certification as we move into international markets. A fidosanitary certificate meets requirements of both the USDA and the country we're exporting to. Montana has an agreement with the USDA that allows our state inspectors to write those certificates and allow those products to move. Whatever the produce, we provide that service to this industry and these fees are used to help us do that.

The warehouses throughout Montana also call us if there's a quality problem with the produce that comes from another state. Our inspectors deal with that issue and reissue a quality inspection certificate. Then the warehouses can go back to the source, say California, and say we didn't receive what you shipped us. There was deterioration of quality and we want to settle this contract with you. Our certification of quality is binding. Because of our agreement with the USDA, our inspectors are USDA qualified and do a USDA inspection. That allows them to be sure that we get the quality produce that is purchased and the consumers receive the quality produce they should. These are types of activities that these fees fund.

In 1996 I was the lucky one that got to reduce the fee from 5.5 cents to 3.4 cents because we had an excess balance. Now we are using up that balance and additional services are being required of the Department of Agriculture. We need to raise that fee back to 5 cents, which is still lower than it was originally. We knew that would happen once the balance came down. We didn't foresee

the impact of CI-75 and of course are prevented from doing that by rule now, so this would allow it to be done by statute.

{Tape : 1; Side : A; Approx. Time : 3.12 p.m.}

Questions from the Committee and Responses:

SENATOR GERRY DEVLIN inquired what the per product unit or poundage meant.

Ralph Peck answered it's based upon the way the companies usually ship.

SENATOR DEVLIN asked if that would be a nickel for every unit, regardless of the size?

Ralph Peck replied a unit would be a 40 lb. box of apples, so that would be a nickel.

SENATOR DEVLIN inquired what about a hundred lb. sack of spuds?

Ralph Peck said potatoes come in 24 lbs.

SENATOR JON TESTER stated the assessment helps to fund agriculture programs administered by the department, including the produce inspection. He questioned if the other programs administered by this fee deal with produce or if they are dealing with other aspects in the Ag department?

Ralph Peck answered we can only use these fees for programs that are related to produce. These funds are directed specifically to the purpose of the program.

SENATOR TESTER asked if this assessment goes solely go for produce inspection.

Ralph Peck responded that was the way they try to administrate it.

SENATOR DEVLIN asked if a fiscal note was going to be required.

Ralph Peck thought they had prepared one. Raising this fee 1-1/2 cents would generate an increase of approximately \$65,700 per year. That is our projection based on the existing produce that is coming into Montana.

SENATOR EKEGREN asked if would soon develop an excess again.

Ralph Peck answered it is their intent not to do that. This fund will maintain a balance in the range of \$100,000 per year so they do not have to ask the legislature to do this every session. There will be a time when they will need to come back again. With inflation, we would either have to reduce services or raise the fee again. We reduced it to 3.5 knowing we'd use up that balance and would need to raise it again.

CHAIRMAN JABS commented 90% are funded by fees.

Ralph Peck answered yes, but he thinks actually 94% are under the existing operational budget of the Department of Agriculture. 94% from fees, special revenue and federal funds in the Department and the other 6%, I believe, is General Fund.

CHAIRMAN JABS said he brought that up to let people know that agriculture is picking up most of the tab. The fiscal note has been submitted to the budget office and he anticipated it being done soon.

Closing by Sponsor:

SENATOR HERTEL This fee is very important to maintain this program of inspection and I hope you'll see to it we can get that. I think the Director has described what the fees do and the need for that. They have a really great track record in that if they do get an excess amount of money, they do lower the fees. I think it's a good bill, thank you for a good hearing. I hope you'll see fit for a Do Pass for **SB 147**.

{Tape : 1; Side : A; Approx. Time: 3.20 p.m.}

HEARING ON SB 18

Sponsor: **SENATOR LINDA NELSON, SD49, Medicine Lake**

Proponents: **Ralph Peck, Montana Department of Agriculture**
Lorna Karn, Montana Farm Bureau
Ron deYong, Montana Farmers Union
Mark Peterson, Montana Pulse Growers Assoc.
Steve Keil, Pacific NW Oil Seeds Assoc,
Mike Greytack, Secretary/Treas, Montana Pulse
Randy Johnson, Montana Grain Growers
Pam Langley, Montana Agribusiness
John Bloomquist, Montana Stockgrowers
Candace Payne, WIFE
Bill Kissinger, Department of Agriculture

Opponents: None

Opening Statement by Sponsor:

SENATOR LINDA NELSON, SD 49, SB 18 is the product of Vision 2005 Task Force on Agriculture. You've probably all received a copy of that. The bill will allow agriculture commodity groups to voluntarily petition the Dept. of Agriculture for a checkoff program which will only be enacted after a vote of the growers of that particular commodity. This checkoff program would allow for research and marketing without each commodity group having to go through the Legislature. If the checkoff program is voted into place, the Dept. of Agriculture will administer the program in coordination with an advisory committee which is established under the referendum.

The Vision 2005 Task Force recognized this is an important means to aid in the doubling in the economic value of agriculture by the year 2005. The Federal Freedom to Farm Act of 1996 allows farmers to grow a wide variety of crops based on market demand, and along with that they need the tools to successfully grow and market their products. Passage of this bill will allow producers to help themselves with their own checkoff, achieving the Vision 2005 theme of Montanans working for Montana.

You'll notice that the checkoff is voluntary and there is a mechanism in there for the producers to receive a refund if they do not want to support the program. This is similar to the wheat and barley checkoff. The Dept of Agriculture worked with a number of agriculture organizations in developing this bill, the Pulse Growers, Canola growers, safflower growers, Montana Grain Growers, Montana Farm Bureau, Farmers Union, Wheat & Barley Committee, Montana Stockgrowers, Wool Growers Assoc, Montana Nurserymen and Women Involved in Farm Economics. This bill also has the endorsement of the Jobs and Income Committee which has been working for economic development in Montana.

The Stock Growers and the Dept. of Agriculture have amendments they would like to add to the bill. I know the Dept. of Agriculture will explain this more fully.

{Tape : 1; Side : A; Approx. Time 3.24 p,m.}

Ralph Peck, Director, Montana Dept. of Agriculture, read written testimony attached as **EXHIBIT(ags05a01)**. We do have one amendment. It's on page 6, line 1 of the bill. We would like to clarify, after "affected growers and producers", that the referendum must include among other information items, the amount

of the assessment and the method of collection. It might be prudent to clarify on page 6, line 4, it says the referendum, "an individual must be 18 years of age or older and a Montana resident". We would suggest after "an individual must be" inserting two words, "a producer", 18 years or older and a Montana resident". A producer would be inserted in there and also on Page 6, line 21, the same thing, a producer there. So it's very definitive there, the people voting on this referendum would be producers.

Lorna Karn, Montana Farm Bureau Federation, Our organization would like to go on record as being in support of this legislation. We had a person who worked on the Vision 2005 group. We like to have you give this a do pass legislation. I do agree with the amendments that Mr. Peck and the Stock Growers had.

Ron DeYong, Farmers Union, Farmers Union has several criteria for checkoffs. They want to make sure the producers are in control. How is the structure set up and do the producers get to vote on that in a referendum? They do with this bill. Do producers get to vote on the amount of the assessment and the method of how it's collected? The amendment states clearly that the producers will vote on the assessment.

We want to make sure that a majority of the board are producers and that is in this bill. The fourth is some sort of exit strategy in case the checkoff doesn't provide options we can get. This is one that we need to include. It meets the criteria that it will stay producer controlled and we urge your acceptance.

Mark Peterson, Montana Pulse Growers Assoc. by vote of the producers of Montana Pulse Growers, the board was instructed to pursue a checkoff so therefore we stand in support of **SB 18**.

Steve Keil, Past President, Pacific NW Oil Seeds Assoc. One of the provisions in the 1995 farm bill was a national canola checkoff that will be enacted by the secretary after a petition of canola growers when production exceeds one half million acres in the U.S. That number has been exceeded.

There is a provision in that bill that one half of the collected assessment, up to four-tenths of 1%, will return back to the state if matched by a state checkoff. That's money coming out of the State of Montana that could be returned if we are able to match this. At that time there was not enough acreage or enough value to make it. The next year the canola acreage went sky high. I approached the Montana Wheat and Barley Committee about two years ago to look at the possibility of them administering a

canola checkoff. I got a go ahead to introduce legislation in the last legislature. I talked to Representative Ohs and the Dept. of Agriculture to coordinate things. It was determined that rather than coming up with a wrong bill two years ago to go home and write a proper bill. Many more small-use crops thought that a checkoff would be a proper thing to do.

Out of the ideas we had at that time came this bill. I thank **SENATOR NELSON** for carrying this bill for these various groups. We did not want to interrupt you every legislature for a new piece of legislation for another bill. It is my understanding there are about six or seven various groups who are interested in the CI-75 legislation. It looks like this will answer a lot of peoples' questions.

Wheat and barley are probably not going to carry the full freight anymore. If we can make money raising another crop, and if research can be done in Montana for Montana crops, we will be able to go forward with the Vision 2005. I strongly urge passage of this bill.

Mike Greytack, Secretary/Treasurer, Montana Pulse Growers.

Pulses are peas, lentils and chickpeas. We've been working with various ag organizations and the Dept. of Agriculture and their staff all year long to get this where it is now. The Pulse Growers hope go to referendum, probably this year or next. If this would have passed and CI-75 had not been here, the growers would have been able to have a grower referendum and go about their checkoff. CI-75 might further complicate their lives. We are fully behind this bill and would appreciate your support.

{Tape : 1; Side : A; Approx. Time 3.39 p.m.}

Randy Johnson, Montana Grain Growers, stand in full support of this legislation. We have a long history of working with the Wheat & Barley Committee and that assessment and program has worked well for our industry. As more and more of our members and farmers in Montana turn to alternative crops, we think that it's important they be given the opportunity to help themselves with a similar program like this one is. We urge your support of this bill.

Pam Langley, Montana AgriBusiness Assoc., Montana Grain Elevator Assoc, Montana Seed Trade. We are in support of this legislation. Montana AgriBusiness Assoc. has been working with the Pulse Growers in terms of educational opportunity and we look forward to expanded horizons for the growers that we serve.

John Bloomquist, Montana Stockgrowers, Stockgrowers as well sat on Vision 2005 and believe that **SB 18** provides the mechanism which is necessary for these voluntary type of producer driven checkoffs. Stockgrowers, in reviewing Vision 2005 proposal at the convention in September, voted policy to include within the voluntary checkoff program a checkoff for rangeland marketing research and that is the purpose behind the amendment that **SENATOR NELSON** referred to. I discussed the amendment with **SENATOR NELSON** as well as the Dept. of Agriculture and they have authorized the amendment as well. **TAPE (CHANGE)**
See EXHIBIT(ags05a02). We urge your passage of the measure and hope you will adopt the amendment as well.

Candace Payne, Women Involved in Farm Economics, during the interim **WIFE** members worked very hard with the Dept. of Agriculture to help come up with these alternative crop checkoff programs. Our past president Sharon Kendall was supposed to be here today. She did fax me her testimony which I will pass out.
See EXHIBIT(ags05a03). I want you to know we support this legislation and hope you will pass it with the amendment.

{Tape : 1; Side : B; Approx. Time 3:44 p.m.}

John Bloomquist, Montana Stockgrowers, I forgot to add that Bob Gilbert, Montana Woolgrowers and Montana Dairy Association could not be here today. Mr. Gilbert asked that I place those associations on record as in support of the bill.

Bill Kissinger, Montana Dept. of Agriculture. One of the groups that came to us with an interest in this bill was the organic crops producers in the state. They thought it would be an opportune time to also have a checkoff program so that they could have an organic certification program to market their organic products. They have been working with Bob Quinn, Montana Flower Producers, one of the major organic producers, growers and companies in the state. Mr. Quinn was unable to make it today but he has requested some further amendments to the bill to accommodate a checkoff for the organic certification program.

The amendments would allow adoption of the checkoff for commodity certification program such as the organic certification program. In doing so, it is a little bit atypical from what a normal wheat and barley checkoff is. That is why we felt it was necessary to have some amendment to broaden it so that it would encompass that concept too and keep within its framework of an enabling act. **See EXHIBIT(ags05a04)**.

SENATOR DEVLIN Usually the amendments go through the amendments researcher.

SENATOR NELSON suggested taking up the amendments during Executive Session on the bill, then they would have a chance to review them.

Bill Kissinger gave a general explanation of the amendments. There is going to be a national organic craft law, we've been working on rules on this for a number of years. In order to incorporate some of those national programs for organic certification, we also need to have a state counterpart to regulate the products and state certified organic products. It amends the title of the bill. It changes some terminology to correspond with the federal act that's being proposed. It indicates that it amends the definition of a commodity to include organic crops and livestock.

It also inserts the words "commodity certification" so it's clarified that this is going to be for research, market evolvment and then commodity certification. It calls for a grower paid assessment and the handler and processor pays the assessment. In the original bill, just the first purchaser pays the assessment. It broadens it so that the grower, the handler and the processor of organic products pays the assessment, as part of an over-encompassing organic certification program.

If someone was producing organic crops and selling it as a certified, and it was tested and found to be contaminated by pesticides or whatever, there is a mechanism to actually make them meet the certification standards adopted under this program.

Webb Brown, President, Montana Chamber of Commerce, They say the Lord helps those who help themselves and we see this bill as allowing producers out there to do that very thing. We urge your positive consideration.

SENATOR JON TESTER, SD 45, I've been working with Mr. Quinn and some of the organic growers in the state on this and I will tell you why we want to incorporate it into this legislation. With the number of bills ahead of us in this session, we felt it could easily be incorporated in and meet the needs of the organic certifiers, but I will tell you that this is enabling legislation.

What was occurring in organics is the federal government has come in and they're going to lay out some broad standards for organic production. In those standards it stipulates that if you have a state certification agency you can certify to those higher standards. If you have a private certification agency, you cannot. It gives an inherent advantage to state government certification agencies. That's why we wanted to incorporate into

this bill. The checkoff is a easy way to implement it for us and a easy way for the Dept. of Agriculture to administratively take care of the organic certification.

{Tape : 1; Side : B; Approx. Time : 3:51 p.m.}

Questions from Committee Members and Responses:

SENATOR HOLDEN asked **Ralph Peck** on what page exactly do you talk about what producers or growers get to vote?

Ralph Peck responded page 6, line 4 and 21.

SENATOR HOLDEN would like to have a clear clarification as to how you're going to find who the producers and growers are and who is going to get to vote. More specifically, on what list are you going to find those producers or growers so we don't have to listen to complaints later that I wasn't included and my vote wasn't counted.

Ralph Peck On the top of page 6, lines 1, 2, and 3. The referendum must be a paper ballot mailed to the last known address of known growers and producers of the relevant commodity, obtained from lists provided by the petitioner and other sources known to the department. We spent quite a lot of time working on this with the industry trying to define how we would appropriately identify the producers. We'd go to the Farm Service Agency that maintains records of production, to the Ag Experiment Station and Extension Service, the Agriculture Statistics service and any other source that could to verify producers.

We anticipate advertising to be sure that individuals in production would be sure to notify us and verify that they are producing the crops that we would be petitioned to put a checkoff against. We also hope to work with all the agriculture organizations, so that individuals who have a right to vote on the referendum would be certain to receive a ballot and that we also have qualified that they are actually producers. It's going to be a real challenge for the Dept.

SENATOR HOLDEN to follow up to that because I've been through this with the sheep industry, I don't see it in the statute but if you can show me where it specifically clarifies if corporate farms get 1 vote, family farms get 2, 3, 4 depending on who's in the family. I don't see any clear language on that.

Ralph Peck I don't believe we've addressed that.

SENATOR HOLDEN In **SENATOR NELSON'S** opening, she talked about a voluntary return of checkoff money to producers. I'd like to go specifically to that section of the law and know what that's all about.

Ralph Peck One of the standards they wanted was that those individuals who did not want to participate in the checkoff program would have the ability to receive their funds back and not be charged the checkoff fee, so that it was voluntary. That section was developed with the agriculture organizations, page 8, Line 21, sub 5. This is similar to the ability of the grain producers to receive their funds back if they don't want to participate.

SENATOR DEVLIN Was it your intent to promote products. To try to open up newer markets? Do you think the certification process for organic farming will detract from your bill in its success in the two Houses?

SENATOR NELSON This just came up yesterday. They wanted to try to get something into the bill that we could talk about in committee, rather than try to devise their own thing at this late. I guess I would expect us to talk about that and decide if it's something we want in the bill or not. From what **SENATOR TESTER** said, it's something that could be used but would not necessarily be used. My immediate reaction would be that it isn't going to cause it any harm.

SENATOR DEVLIN asked if these would all be statewide initiatives. or would they be local.

SENATOR NELSON The intent would be that it would go to the producers themselves, the producers of whatever, statewide.

CHAIRMAN JABS This is a voluntary program and you can get your money back but there is a penalty here if a first purchaser does not collect. You have to pay it and can get it back, if you don't pay it you get a penalty.

SENATOR NELSON There is an obligation for the person who is supposed to collect this to collect it. That person has to collect it, then you have to apply to get your money back. I guess I would relate that to the Wheat and Barley Committee, the checkoff that we now pay on our wheat.

CHAIRMAN JABS So it's a penalty against the person who doesn't collect it or the producer that doesn't pay it?

SENATOR NELSON The penalty is to the person who doesn't collect the fee. It's deducted from the check that you get.

CHAIRMAN JABS If this organic group comes in, primarily it's for the producer to pay this. They mention that it goes from the grower to the processor and to somebody else. That completely changes the whole process of this, doesn't it?

SENATOR NELSON As to the organic, that's something I'm not prepared to answer. We're going to have to look at the amendments and we're going to have to have a more in depth discussion.

SENATOR TESTER It's the intent of the organic certification to take advantage of each one of those levels, because each level adds value to that crop to help pay for the certification, farm level and at processing level, manufacturing level. It's not the intent to force that in any way and if that ends up being a bone of contention it will be withdrawn. We by no means want to complicate the bill and make it less efficient for what the people in Vision 2005 intended for.

SENATOR HOLDEN I would like to address another question to Steve Keil. Your association deals with canola oil, is that right?

Steve Keil No, we are producers, we produce canola. Canola is a derivative of rape seed, differing in its genetic makeup. We're farmers.

SENATOR HOLDEN This seed that you grow is sold how, to who and where?

Steve Keil Canola seed is sold through a variety of commercial outlets. At the present time the three major grain purchasers in the State of Montana, Columbia Grain, General Mills and Harvest States Cenex are involved in canola production. I believe some other minors are. I personally sell most of my canola to Camber Foods in Lethbridge, Alberta. There are some canolas that are sold throughout the eastern side of the state into North Dakota. Canola is a commodity that's traded on the Winnipeg grain exchange, it's a major commodity in Canada. At the present time it's still a minor commodity in the U.S.

SENATOR HOLDEN I'm thinking that a checkoff would enhance the dollars in your pocket by the way of product promotion. I think that if you have a statewide checkoff, I don't know how you're going to enhance product promotion to give you more money in your pocket here, just within Montana, when you're talking about international worldwide market.

Steve Keil I believe the intent of the legislation quite some time ago inputs these as both market development as well as research. As far as the canola side it would be on basic production research, possibly the research and breeding of cultivars specific for the State of Montana. There are numerous varieties of canola, napus and rapa canola varieties that have different seasons, different growing conditions, none of which are developed within and specifically for the State of Montana.

The Montana Wheat Barley Committee has in the past provided some funding for canola research but it hasn't been a lot. I might add some basic research might benefit Montana so Montana farmers could understand the production of canola.

Two years ago, Tony Matilny, executive vice president of the Canola Council of Canada, told us that there was a solid worldwide demand for the production of canola from 19 million acres in the North American Continent. This year Canada's production will be in excess of 16 million. That still leaves 3 million void acres that need to be produced. The best place to produce canola is along the northern tier of states. Montana could very easily be up in the 500,000 to 700,000 acre production. It has the type of soil and weather conditions that would allow us to produce that.

Last year Senator Conrad Burns had asked NDSU to do an economic study of the farms in North Dakota. Canola lost the least amount of money of any product in North Dakota, losing an average of \$3.00 per acre, compared the next commodity at \$36.00 per acre loss. That could be translated to Montana. We need to have some cultivars in the State of Montana that are more adaptable and more in our line. We're going to get them with our own money.

{Tape : 1; Side : B; Approx. Time: 4:12}

SENATOR MCNUTT When we talk about selling crops into Canada and North Dakota, how do we collect the checkoff from Canada or North Dakota?

SENATOR NELSON deferred to **Mr. Christiansen**. For the record, my name is **Jim Christiansen, Executive Vice President with Montana Wheat & Barley Committee** in Great Falls. The laws states now that wheat and barley checkoff is collected on any grain that is sold in Montana. It might be North Dakota, Idaho, Wyoming, and certainly there is Canadian grain collected in the state. Other states do basically the same to us. Historically we have had agreements with neighboring elevators over the line in, for example, North Dakota to send us back the assessment that is Montana's as we would send theirs back.

When the Canadian issue got involved, we said, hey, everyone will keep what they collected as sold within their state. So the Wheat and Barley Committee fund is made up of not only Montana grown wheat but some from other states. Alberta gets a refund on every bushel. We've never given a refund to Saskatchewan. They've never asked for it, so we make a little bit on the Canadians. Does that answer the questions as far as who collects it?

The penalty is against the first purchaser. The farmer always pays it. The producer pays it but it's collected by the first purchaser. The first purchaser collects all the assessment over a 30 day period and sends it in one check. The producer can ask for it back after 30 days. You can't refund something back you don't have yet and it takes 30 days to collect it.

The number one customer for Montana wheat is Japan. We sell as much wheat to Japan as all the provinces of Canada combined. The number one customer for canola oil is Japan also, all from Canada. Japan would like diversify their supply and not be totally dependent on Canada. There's nobody around to tell them that we raise canola. The number two customer and the fastest growing customer is China. There is a disease fidosanity prohibition on wheat going to China off the west coast but none on oil seeds.

The market development effort shouldn't be just slid over. These commodities are going to have to collect enough money to get into market development. The number one producer of safflower in North America is California. They raise more than all the other states and Canada combined. It's all for domestic consumption and they hold the market. The only way we're really going to make safflower grow here is in the international market. As far as research, everyone of these commodities is going to come to you at one point and ask for research dollars. I realize the pie for research isn't going to get any bigger out of Helena. And I want to keep as much of that pie for wheat and barley because that's who I work for. I'm willing to help those other commodities get a checkoff program for research because if we don't, they're going to cut into my slice of the pie. You'd be a lot more willing to give them money for research at MSU if they're contributing as well.

A guy was applying for the Dean's position at MSU. He was in Cal-Davis and he was being interviewed by movers and shakers in the ag organizations. Somebody said don't you think we should have some research in aquatic agriculture, raising fish in this state. The guy said, well, I've looked at your MSU budget. You can barely afford what you've got now. You can't afford anything else. That's where we are on all these minor crops, canola and

safflower and pulse crops and emus and llamas and all these other things. The truffle growers of Daniels County are going to come in at some point and want money. The idea is to let them help themselves.

SENATOR MCNUTT still doesn't think he got his question answered. We're going to sell the bulk of the canola into Canada. How do we get any checkoff dollars back to promote research into canola if that purchaser doesn't refund checkoff dollars back to Montana?

Ralph Peck Even if it's sold in Canada, the first purchaser is many times a buyer in the United States. If it's shipped direct into Canada we probably will not receive it. If the first purchase location is located in Montana then the transaction occurs in Montana and we would receive it.

SENATOR MCNUTT If that's true, then we don't get any checkoff dollars for that program, if it's not sold in Montana, first purchaser.

Ralph Peck That's correct.

SENATOR MCNUTT You sold your product into Canada. That bothers me a little bit if you're going to get any checkoff dollars for your program.

Steve Keil There are three major purchasers in the northern tier that buy out of Montana; Camber Foods, Northern Seed, I believe, and I can't remember the other. They have all given us verbal commitments to stand behind this legislation. They will voluntarily collect and remit without any questions.

SENATOR MESAROS This may have been covered in the sponsor's opening - I was late. On the fiscal note, it references 2 commodities anticipate a petition at this stage of the petition checkoff. Who are they?

Ralph Peck We've been told the Pulse Growers is one of the producers in Montana. At their annual meeting they had a unanimous decision to approach the Dept. of Agriculture for a checkoff. We also have been informed by the canola producers that they too want to approach the Dept. of Agriculture for a checkoff.

SENATOR MESAROS How many respective producers have to petition the department and then by a favorable vote. What would it entail in the petitioning process?

Ralph Peck In working with agriculture producers and putting this legislation together it was anticipated the petitioners would petition the Dept. for the program they wanted to enact. Then we would work sit down with them and define appropriately and hold a public hearing....(TAPE CHANGE) for the criteria and what the purposes would be for the checkoff, from the amount to what it would be used for, it would basically put all the parameters in front of individual producers so they would know exactly.

SENATOR MESAROS How many producers is it going to take for this petition to be addressed.

Ralph Peck I believe the statute defines that it would be 15% of the known producers of that agriculture commodity. It is going to put the Dept. of Agriculture in the position of spending as time as possible to be sure we can define who the agriculture producers are of that commodity to the very best of our ability and then be able to defend that.

SENATOR DEVLIN You're putting out this extra effort and you're going to have more help in the Department?

Ralph Peck We've discussed that and we haven't been able to define for the fiscal approach just what the costs of that would be. Our intent in our discussion was to do the very best we could with existing staff. Should we find that additional resources are necessary, we would go to the Montana Growth Through Agriculture Council and ask them for some assistance with a grant request. With the producers sitting on the council, they could evaluate that request to see if they could provide the resources necessary. If they turned us down, we'd have to do it with internal resources working with the industry in Montana.

SENATOR DEVLIN **SENATOR SWYSGOOD** is going to ask that question on the floor.

SENATOR HOLDEN I would just add for Mr. Peck's benefit, I don't think **SENATOR SWYSGOOD** is going to buy the fiscal note that I'm reading. I think it's quite a bit understated.

{Tape : 1; Side : B; Approx. Time : 4.24}

Closing by Sponsor:

SENATOR NELSON We certainly had a good discussion on this and I'm sure we'll have a better discussion yet in Executive Session. I feel that we in agriculture need the means to help ourselves to promote our product. What better and more fair way of doing this

than to assess ourselves our cost on our production. This will only occur on a vote of the producers, it isn't something that we're enacting and we're telling anyone that they have to do it. Lastly, there is the means in there. You have to jump through a few hoops to get your money back but if you really want it back, it's there. Again, it's something that Vision 2005 Task Force worked hard on and came up with some recommendations to help ourselves and this is certainly, I think, a good piece of legislation. Not that it can't be better with some amendments and I certainly thank all these ag producers that came to testify for this. Obviously it's something that people want to do, want to do this for themselves.

{Tape : 1; Side : A; Approx. Time 4:25}

CHAIRMAN JABS Members of the committee, Doug Sternberg has something to say about the amendments.

Doug Sternberg In order to avoid confusion that we ran into today with amendments, I really appreciate for the lobbyists, department or any of the senators that wish to have amendments prepared on any bills, if you could run them through me. That would give me a chance to have the amendments in front of the members when the bill is heard or on Executive Action, to make sure they're consistent with our statutory form. Give me a chance to address any problems or issues that might be adherent in those amendments.

CHAIRMAN JABS Monday we will hear two bills and take Executive Action on SB 147.

ADJOURNMENT

Adjournment: 4:27 P.M.

SEN. REINY JABS, Chairman

CAROL MASOLO, Secretary

RJ/CM

EXHIBIT (ags05aad)